

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

6 GERARD DUENAS, HAROLD GOLDMAN,  
7 Plaintiffs,  
8 vs.  
9 STEVEN FREITAS, AKA STEVE  
10 FREITAS, in his Official and Private  
11 Capacity, SONOMA COUNTY SHERIFF'S  
12 DEPARTMENT, KATHRYN STRALEY in  
13 her official and private capacity, DEUTSCHE  
14 BANK, NATIONAL TRUST COMPANY,  
15 MICHAEL S. AND MARY C.  
BASKAUSKAS, DOES 1-  
16 Inclusive.

Case No: C 13-00836 SBA

**ORDER DIRECTING PLAINTIFFS  
TO FILE RESPONSE TO  
DEFENDANT'S MOTION TO  
DISMISS**

## Defendants.

On May 10, 2013, Defendant Deutsche Bank National Trust Company filed a motion to dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 21. Under Civil Local Rule 7-3(a), an opposition to a motion must be filed within fourteen days of the date the motion was filed, and the reply is due seven days thereafter. As such, Plaintiffs' response to the motion should have been filed by no later than May 24, 2013. To date, Plaintiffs have not filed any response to Defendants' motion.

This Court’s Standing Orders warn that the failure to file a response to a motion may be construed as consent to the relief sought in the unopposed motion. Dkt. 14 at 5. As such, it is well within the discretion of the Court to grant Defendants’ motion as unopposed and dismiss the action. See Fed. R. Civ. P. 41(b); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Nevertheless, mindful of its obligation to first consider less drastic

1 alternatives, the Court will afford Plaintiffs one further opportunity to respond to the  
2 pending motion. Accordingly,

3 IT IS HEREBY ORDERED THAT Plaintiffs shall have until June 7, 2013 to file  
4 and serve their response (i.e., either an opposition or a statement of non-opposition) to  
5 Defendant's Rule 12(b)(6) motion to dismiss. Plaintiffs' response is limited to fifteen (15)  
6 pages and shall comply in all respects with the Federal Rules of Civil Procedure and the  
7 Court's Civil Local Rules including, without limitation, Civil Local Rules 7-3 through 7-5.

8 **PLAINTIFFS ARE WARNED THAT THE FAILURE TO FILE A RESPONSE BY**  
9 **THIS DEADLINE AND/OR TO COMPLY WITH THIS ORDER OR ANY OTHER**  
10 **APPLICABLE PROCEDURAL RULES WILL RESULT IN THE GRANTING OF**  
11 **THE PENDING MOTION AND THE DISMISSAL OF THIS ACTION.** In the event  
12 Plaintiffs timely file a response, Defendant may file a reply seven days after the deadline  
13 for Plaintiffs' response.

14 IT IS SO ORDERED.

15 Dated: May 29, 2013

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 GERARD DUENAS et al,

5 Plaintiff,

6 v.

7 STEVEN FREITAS et al,

8 Defendant.

9 \_\_\_\_\_ /  
10 Case Number: CV13-00836 SBA  
11  
12 **CERTIFICATE OF SERVICE**  
13  
14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
15 Court, Northern District of California.  
16 That on May 30, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said  
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
19 located in the Clerk's office.  
20  
21 Gerard Duenas  
22 6285 Sonoma Highway 12  
23 Santa Rosa, CA 95409  
24  
25 Harold Goldman  
26 6285 Highway 12  
27 Santa Rosa, CA 95409  
28  
29 Dated: May 30, 2013  
30 Richard W. Wiking, Clerk  
31  
32 By: Lisa Clark, Deputy Clerk  
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